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| Adopted | Rejected |
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COMMITTEE REPORT

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| YES: | 7 |
| NO: | 5 |

MR. SPEAKER:

*Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1479, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning civil
- 3 procedure.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 34-6-2-88 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 88. "Nonparty", for
- 8 purposes of IC 34-51-2, means a person who ~~caused or contributed to~~
- 9 ~~cause the alleged injury, death, or damage to property is or may be~~
- 10 **liable to the claimant in part or in whole for damages claimed** but
- 11 who has not been joined in the action as a defendant. **The term does**
- 12 **not include an employer of the claimant.**
- 13 SECTION 2. IC 34-51-2-7 IS AMENDED TO READ AS
- 14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) This section

1 applies to an action based on fault that is:

2 (1) brought against one (1) defendant or two (2) or more
3 defendants who may be treated as a single party; and

4 (2) tried to a jury.

5 (b) The court, unless all the parties agree otherwise, shall instruct
6 the jury to determine its verdict in the following manner:

7 (1) The jury shall determine the percentage of fault of the
8 claimant, of the defendant, and of any person who is a nonparty.
9 ~~The jury may not be informed of any immunity defense that is~~
10 ~~available to a nonparty. In assessing percentage of fault, the jury~~
11 ~~shall consider the fault of all persons who caused or contributed~~
12 ~~to cause the alleged injury, death, or damage to property, tangible~~
13 ~~or intangible, regardless of whether the person was or could have~~
14 ~~been named as a party.~~ The percentage of fault of parties to the
15 action may total less than one hundred percent (100%) if the jury
16 finds that fault contributing to cause the claimant's loss has also
17 come from a nonparty or nonparties.

18 (2) If the percentage of fault of the claimant is greater than fifty
19 percent (50%) of the total fault involved in the incident which
20 caused the claimant's death, injury, or property damage, the jury
21 shall return a verdict for the defendant and no further deliberation
22 of the jury is required.

23 (3) If the percentage of fault of the claimant is not greater than
24 fifty percent (50%) of the total fault, the jury then shall determine
25 the total amount of damages the claimant would be entitled to
26 recover if contributory fault were disregarded.

27 (4) The jury next shall multiply the percentage of fault of the
28 defendant by the amount of damages determined under
29 subdivision (3) and shall then enter a verdict for the claimant in
30 the amount of the product of that multiplication.

31 SECTION 3. IC 34-51-2-8 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) This section
33 applies to an action based on fault that:

34 (1) is brought against two (2) or more defendants; and

35 (2) is tried to a jury.

36 (b) The court, unless all the parties agree otherwise, shall instruct
37 the jury to determine its verdict in the following manner:

38 (1) The jury shall determine the percentage of fault of the

1 claimant, of the defendants, and of any person who is a nonparty.
 2 The jury may not be informed of any immunity defense that might
 3 be available to a nonparty. In assessing percentage of fault, the
 4 jury shall consider the fault of all persons who caused or
 5 contributed to cause the alleged injury, death, or damage to
 6 property, tangible or intangible, regardless of whether the person
 7 was or could have been named as a party. The percentage of fault
 8 of parties to the action may total less than one hundred percent
 9 (100%) if the jury finds that fault contributing to cause the
 10 claimant's loss has also come from a nonparty or nonparties.
 11 (2) If the percentage of fault of the claimant is greater than fifty
 12 percent (50%) of the total fault involved in the incident which
 13 caused the claimant's death, injury, or property damage, the jury
 14 shall return a verdict for the defendants and no further
 15 deliberation of the jury is required.
 16 (3) If the percentage of fault of the claimant is not greater than
 17 fifty percent (50%) of the total fault, the jury shall then determine
 18 the total amount of damages the claimant would be entitled to
 19 recover if contributory fault were disregarded.
 20 (4) The jury next shall multiply the percentage of fault of each
 21 defendant by the amount of damages determined under
 22 subdivision (3) and shall enter a verdict against each defendant
 23 (and such other defendants as are liable with the defendant by
 24 reason of their relationship to a defendant) in the amount of the
 25 product of the multiplication of each defendant's percentage of
 26 fault times the amount of damages as determined under
 27 subdivision (3)."
 28 Renumber all SECTIONS consecutively.
 (Reference is to HB 1479 as introduced.)

and when so amended that said bill do pass.

Representative Fry